



**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

**DEPARTMENT OF THE TREASURY**

**INTERNAL REVENUE SERVICE**

**TE/GE: EO Examination**

**1100 Commerce Street**

**Dallas, Texas 75242**

**501.03-00**

**Date: October 20, 2010**

Number: 201102065

Release Date: 1/14/2011

**LEGEND**

ORG = Organization name

XX = Date

Address = address

**ORG**

**ADDRESS**

**Employer Identification Number:**

**Person to Contact/ID Number:**

**Contact Numbers:**

Voice:

Fax:

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Dear :

In a determination letter dated October 1, 20XX, you were held to be exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code (the Code).

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(3) of the Code. Accordingly, your exemption from Federal income tax is revoked effective July 1, 20XX. This is a final adverse determination letter with regard to your status under section 501(c)(3) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights.

Our adverse determination was made for the following reasons:

Internal Revenue Code Section 6001 requires organizations exempt from tax to keep such records and render such statements as are required by such rules and regulations as the Secretary may prescribe. Treasury Regulations section 1.6033-2 (h)(2) requires organizations exempt from tax to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into the organization's exempt status.

You failed to meet the records keeping and reporting requirements under IRC 6001 and 6033.

You no longer meet the requirements of IRC section 501(c)(3) and Treas. Reg. section 1.501 (c)(3) -1(d) in that you failed to establish that you were operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. Those returns should be filed with the appropriate service center.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit of declaratory judgment in the United States Tax Court, the United States Claims Court or the District Court of the United States for the District of Columbia before the 91<sup>st</sup> day after the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. You may write to the Tax Court at the following address:

You also have the right to contact the office of the Taxpayer Advocate. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations or extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate, can, however, see that a tax matter, that may not have been resolved through normal channels, gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions in regards to this matter please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

Nanette M. Downing  
Director, EO Examinations



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service  
400 North 8th Street  
Richmond, VA 23219

May 11, 2010

ORG  
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit
Name of taxpayer  <b>ORG</b>	Tax Identification Number  <b>TIN</b>	Year/Period ended  <b>20XX06</b>

**Legend:**

ORG = Organization Name      20XX = Date      TIN = Taxpayer Identification  
Number      State = State      Program Manager = Program Manager      Activity =  
Activity      Chairman = Chairman      CO-1 = 1<sup>st</sup> Company      CO-2 = 2<sup>nd</sup> Company  
Program Director = Program Director      City = City      Program Manager 2 =  
Program Manager 2      Chairman 2 = Chairman 2      BM-1 = Board Member 1  
BM-2 = Board Member 2      BM-3 = Board Member 3      BM-4 = Board Member 4  
Foundation Director = Foundation Director

**ISSUE:**

Whether ORG (ORG) qualifies for exemption under Section 501(c)(3) of the Internal Revenue Code.

**FACTS:**

ORG (ORG) was incorporated as a State Non-Stock Corporation effective April 27, 20XX. The ORG was granted exemption under Section 501(c)(3) on April 27, 20XX.

The Articles of Incorporation of ORG state that the purpose of the corporation is "The Corporation will be dedicated to coordinating human services and delivering them to at-risk youth in Northern State and to their families through the supportive environment of the public schools or alternate education sites. The Corporation will endeavor to enable said youth and their families to have access to a broad range of needed social and educational services by establishing a coordinated delivery system of city resources within an educational setting. The objective of the Corporation will be to reduce the number of school dropouts in Northern State."

Attempts to contact the ORG at the address listed on the Form 990-EZ resulted in returned letters. Significant research was required to locate individuals associated with the ORG.

Program Manager was Program Manager for the ORG from July 20XX until April 20XX according to a letter she wrote to the Service, dated August 10, 20XX. She provided a copy of minutes of the October 19, 20XX Board of Directors meeting, attached as Exhibit A, indicating Program Manager was to focus only on Activity.

Program Manager provided a copy of her calendar to support her claim that she conducted activities consistent with the ORG's exempt purpose for the period under examination. The correspondence from Program Manager indicated that she conducted activities consistent with the ORG's exempt purpose for period of July

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>		Schedule number or exhibit
Name of taxpayer  <b>ORG</b>	Tax Identification Number  <b>TIN</b>	Year/Period ended  <b>20XX06</b>	

20XX to April 24, 20XX. No evidence was provided that proved the ORG conducted activities consistent with its exempt purpose.

The correspondence from Program Manager further stated that all board members had resigned, leaving Chairman, Chairman of the Board of Directors and Executive Director, as the only known officer. All of the Service's attempted contacts with the Chairman of the Board of Directors were unsuccessful. The Service contacted CO-1 (the "parent" organization) in an effort to secure information. State Program Director, Program Director indicated the ORG had stopped sending reports to the State organization and that he was aware that the board members had all resigned. The Service contacted the CO-2 in City, State. Program Manager 2, Program Manager for the Northeast Region said that Chairman had passed away in January, 20XX. An obituary showed Chairman died January 11, 20XX, attached as Exhibit B.

In an effort to secure information about the organization, the service contacted the prior Chairman of the Board, Chairman 2, who left the board when his term ended, at the time Chairman became Chairman of the Board. Chairman 2 had no information of the ORG's activities for the period under examination because he no longer participated. The following individuals, listed on the October 19, 20XX board meeting minutes as being present at the meeting, were contacted: BM-1, BM-2, BM-3, and BM-4. BM-4 was the only one who recalled events related to the ORG. She stated she believed it was early in 20XX that the board dissolved when Chairman became unresponsive to their requests.

The Agent participated in a meeting on April 29, 20XX with Program Manager 2, representative from the CO-2, Program Director PhD, Program Director for CO-1, and Foundation Director PhD, Foundation Director for CO-1. Foundation Director stated that neither the CO-1 nor the CO-2 had any intent of reestablishing the operation of the ORG. The Service reviewed available books and records and found no correspondence, meeting minutes, contracts or other documents that pertained to the period under examination or indication of the ORG's performance of its exempt purpose after April 20XX.

The Agent examined the ORG's Form 990-EZ for the year ending June 30, 20XX. The return reflected under Part IV on page 2, Officers, Directors and Key Employees, Chairman as Chair of the Board and Program Manager as Program Manager. The return was signed by Program Manager, indicating the name of Program Manager, Program Manager.

The ORG's Form 990-EZ for the year ending June 30, 20XX indicated Termination, by virtue of checking the box on Page 1 under B. The return listed Chairman as the

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>	Schedule number or exhibit
Name of taxpayer  <b>ORG</b>	Tax Identification Number  TIN	Year/Period ended  20XX06

sole officer; his position was Chairman of the Board. The return was signed by Program Manager, the Program Manager. "Officer" was lined out on the signature line on page 4, attached as Exhibit C.

The ORG has not filed Form 990/990-EZ for the years ending June 30, 20XX and June 30, 20XX. An Information Document Request was sent to ORG, with a request to file the Form 990 for the tax period ending June 30, 20XX. The ORG failed to respond to the request to file the Forms 990 for the tax period ending June 30, 20XX.

The ORG failed to file Form W-3 and Forms W-2 with the Social Security Administration for the years ending December 31, 20XX and December 31, 20XX.

The State State Corporation Commission terminated the corporate status of the ORG effective August 31, 20XX.

**LAW:**

IRC 501(c)(3) provides that corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes

IRC Section 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC Section 6033(a)(1) provides, except as provided in IRC Section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. Section 1.501(c)(3)-1., Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals

*(a) Organizational and operational tests*

(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of



Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>		Schedule number or exhibit
Name of taxpayer  <b>ORG</b>	Tax Identification Number  TIN	Year/Period ended  20XX06	

the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

(c) *Operational test*

(1) *Primary activities.* —An organization will be regarded as “operated exclusively” for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3).

(d) *Exempt purposes*

(3) *Educational defined*

(i) *In general.* —The term “educational”, as used in section 501(c)(3), relates to

(a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or

(b) The instruction of the public on subjects useful to the individual and beneficial to the community.

Treas. Reg. Section 1.6001-1(a) in conjunction with Treas. Reg. Section 1.6001-1(c) provides that every organization exempt from tax under IRC Section 501(a) and subject to the tax imposed by IRC Section 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC Section 6033.

Treas. Reg. Section 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg. Section 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC Section 6033.

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>		Schedule number or exhibit
Name of taxpayer  <b>ORG</b>	Tax Identification Number  TIN	Year/Period ended  20XX06	

*Rev. Rul. 59-95, 1959-1 C.B. 627*, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC Section 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

#### **GOVERNMENT'S POSITION:**

It is the government's position that ORG is no longer exempt as a Section 501(c)(3) organization because it fails the operational test. The ORG is not being operated exclusively for its exempt purpose in that it ceased providing instruction and training of individuals for the purpose of improving and developing their capabilities. The ORG indicated Termination on its 20XX06 Form 990-EZ. The ORG has no intention of conducting exempt activities. The ORG has no governing board. And the ORG has no means to sustain itself. In accordance with Treas. Reg. Section 1.501(c)(3)-1 (a)(1), when the ORG fails to meet either the organizational test or the operational test, it is not exempt.

The ORG has failed to file Form 990 for the years ending June 30, 20XX and June 30, 20XX, despite the fact that the Form 990 for June 30, 20XX was specifically solicited in an Information Document Request. The ORG has failed to file Form W-3 and Forms W-2 with the Social Security Administration for the calendar years ending December 31, 20XX and 20XX. In accordance with the above cited provisions of the Code and regulations under IRC Sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Given the subject organization's failure to file required information returns such as Forms 990 for the years ending June 30, 20XX and 20XX and Form W-3 and Forms W-2 for the years ending December 31, 20XX and December 31, 20XX, ORG's exemption under §501(c)(3) should be revoked.

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATIONS OF ITEMS</b>		Schedule number or exhibit
Name of taxpayer  <b>ORG</b>	Tax Identification Number  TIN	Year/Period ended  20XX06	

### **CONCLUSION**

Based upon audit work performed, it is the Service's position that ORG no longer qualifies for exemption as it fails the operational test of an IRC Section 501(c)(3) organization. The organization failed to meet the reporting requirements under IRC Sections 6001 and 6033 to be recognized as exempt from federal income tax under IRC Section 501(c)(3). Accordingly, we propose revoking the organization's exempt status effective July 1, 20XX.